

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Paboojian et al	Group Art Unit: 3734
Application No: 09/731,318	Examiner: Mendoza, Michael G.
Confirmation No: 1028	Attorney Docket No: NK.0050.01
Filed: December 6, 2000	
Title: RECEPTACLES TO FACILITATE THE EXTRACTION OF POWDERS	September 2, 2008 San Francisco, California 94107

REPLY BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Examiner:

In response to the Examiner's Answer mailed on July 2, 2008, the Applicant of the above-referenced patent application (hereinafter Appellant) hereby maintains the appeal to the Board of Patent Appeals and Interferences. Appellant requests the reversal of the Final Rejection.

Certificate of Transmission

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, facsimile transmitted to the U.S. Patent Office at (571) 273-8300, or electronically submitted, on the date shown below.

By: 
Leslie Mills

Date: September 2, 2008

Status of Claims

Claims 1-4, 13-22 and 31-34 are presently pending in the case. Claims 1-4 have been finally rejected. Claims 13-22 and 31-34 have been allowed. The appeal of the rejection of each of claims 1-4 is hereby maintained.

Grounds of Rejection to be Reviewed on Appeal

Appellant continues to request review of the Examiner's following grounds of rejection:

Claims 1-4, rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,980,074 to Watt et al (hereinafter Watt et al).

Argument

Appellant believes each of claims 1-4 are improperly rejected and are therefore allowable for the reasons set forth in Appellant's Appeal Brief filed on August 7, 2007. The present Reply Brief is being filed to specifically address some of the issues raised by the Examiner in the Examiner's Answer mailed on July 2, 2008. The comments herein are merely supplemental to the arguments made in the Appeal Brief and are not meant to replace those arguments.

Watt et al does not disclose an "enclosed cavity"

As discussed in the Appeal Brief, Watt et al does not disclose a cavity that is "enclosed." Instead Watt et al discloses a cavity that has several openings, such as vents (11) and opening (2). Thus, Watt et al does not anticipate claim 1 which requires that the cavity be enclosed.

In response to Appellant's contention, the Examiner erroneously draws an analogy to the bars of a cage. The Examiner states that "[t]he bars of a cage enclose a defined space and is still open to the surrounding environment." (Examiner's Answer, Page 3). However, the position taken by the Examiner is unfairly non-contextual. One of ordinary skill in the art would recognize that the term "enclosed" relates to that which is intended to be contained. Thus, while the bars of the Examiner's proffered cage are effective in keeping a bear inside the cage or a wandering child outside the cage, the bars of the cage are ineffective in containing something small enough to penetrate between the bars. Accordingly, one of ordinary skill in the art would not recognize the cage to be an enclosure for, say, water. In similar manner, one of ordinary skill in the art when interpreting the scope of Appellant's claim 1 would recognize that the cavity is enclosed in a manner to contain powder and to a certain degree air. Clearly, then, openings of the type described by Watt et al would prevent one of ordinary skill from viewing the cavity of Watt et al as being enclosed.

Conclusion


Thus, it is believed that all rejections made by the Examiner have been addressed and overcome by the above arguments and the arguments provided in the Appeal Brief. Therefore, all pending claims are allowable. A reversal is respectfully requested.

Should there be any questions, Appellant's representative may be reached at the number listed below.

Respectfully submitted,

JANAH & ASSOCIATES

Dated: September 2, 2008

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